

**ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009**  
**COMMITTEE STATEMENT**  
**LB293**

---

**Hearing Date:** Monday February 23, 2009  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Nantkes  
**One Liner:** Adopt the Short-Term Lenders Act and eliminate the Delayed Deposit Services Licensing Act

---

**Roll Call Vote - Final Committee Action:**  
Indefinitely postponed

---

**Vote Results:**

**Aye:** 8 Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pankonin,  
Pirsch, Utter

**Nay:**

**Absent:**

**Present Not Voting:**

---

**Proponents:**

Senator Danielle Nantkes  
Craig Groat  
Deborah Eagan  
Mark Pomeroy  
Lea Wroblewski  
Michael Riley  
Lin Quenzer  
Julia Plucker  
Jim Cunningham

**Representing:**

Introducer  
Self  
Religious Affinity Group  
Christ for the City Initiative  
Legal Aid for NE  
Self  
City of Lincoln Mayor  
NE Credit Union League  
NE Catholic Conference

**Opponents:**

Kurt Yost

DeMaria Johnson  
Patricia Cirillo  
Kevin Bernadt  
Richard Horner  
Brent Undereiner  
Remi Stone

**Representing:**

Midwest Check Cashers Inc. / NE Chamber of  
Commerce & Industry  
NE Association of Check Cashers  
Cypress Research Group  
Cash Solutions Inc.  
Wyoming Financial Lenders  
Self  
Advance America

**Neutral:**

Lori Lothringer

**Representing:**

MCC Financial Planning Program

---

**Summary of purpose and/or changes:**

**OVERVIEW**

LB 293 (Nantkes) would enact the Short-Term Lenders Act to allow licensees under the act to make short-term loans of not more than 500 dollars for not more than 35 days at not more than 36 percent annual interest. The act would require the Director of Banking and Finance to regulate licensees and also develop a statewide common data base accessible through the Internet for licensees to determine if a borrower is eligible for a short-term loan. The bill would provide for

---

creation of the Financial Literacy Education Fund to be used to support adult financial literacy education programs to be developed or implemented by the Department of Banking and Finance. The bill would outright repeal all sections of the Delayed Deposit Services Licensing Act (sections 45-901 to 45-929).

## SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Short-Term Lenders Act.

Section 2 would enact a new section to provide definitions for "annual percentage rate," "department," "director," "interest," "licensee," and "short-term loan."

Section 3 would enact a new section to provide that (1) no person shall make a short-term loan to a borrower in Nebraska or assist a borrower in Nebraska to obtain a short-term loan without having obtained a license from the Director of Banking and Finance, (2) a person not located in Nebraska shall not make a short-term loan to a borrower in Nebraska, and (3) the act does not apply to a state-chartered or federally chartered financial institution.

Section 4 would enact a new section (1) to provide for license application, an investigation fee of two hundred dollars, an original and renewal license fee of five thousand dollars per location, with all such fees to be credited to the Financial Literacy Education Fund (created by section 21 of the bill), (2) to provide for background investigations of applicants by means of fingerprints and criminal history record information checks with costs borne by applicants and by means of civil history records information checks and to require an applicant to be financially sound and have net worth of at least one hundred thousand dollars, (3) to provide for denial of an application and appeal from a denial, and (4) to provide that a licensed person shall obtain and maintain a corporate surety bond in the penal sum of at least one hundred thousand dollars.

Section 5 would enact a new section to provide that a license issued by the Director of Banking and Finance shall state the address at which the business of making short-term loans is to be conducted and that not more than one place of business shall be maintained under the same license.

Section 6 would enact a new section to provide that a licensee may make a short-term loan if (1) the total amount of the short-term loan does not exceed five hundred dollars, (2) the duration of the short-term loan is not less than thirty-five days, (3) the short-term loan is made pursuant to written contract which contains disclosures set forth in this section, and (4) the contract offers the borrower an optional extended payment plan subject to requirements set forth in this section.

Section 7 would enact a new section to provide that a licensee may charge, collect, and receive (1) interest not exceeding an annual percentage rate greater than thirty-six percent and (2) one check collection charge per short-term loan not exceeding twenty dollars plus any amount passed on from other financial institutions for each negotiable instrument returned or dishonored.

Section 8 would enact a new section to provide for prohibited acts set forth in the 19 subdivisions of this section.

Section 9 would enact a new section (1) to provide grounds for the Director of Banking and Finance to suspend or revoke a license and (2) to provide for the director to make investigations and conduct hearings regarding violations of the act or rules and regulations adopted and promulgated under it.

Section 10 would enact a new section to provide that the Director of Banking and Finance may examine the records of a licensee at any time, but no less often than annually.

Section 11 would enact a new section to provide that (1) every licensee shall preserve books, accounts, records, and short-term loan documents for at least two years, and (2) each licensee shall file with the Department of Banking and Finance a report each year concerning the business and operation for each business location.

Section 12 would enact a new section to provide for civil remedies and criminal prosecutions.

Section 13 would enact a new section to provide that (1) the Director of Banking and Finance shall develop a statewide common data base accessible by Internet to all licensees for the purpose of determining if a borrower is eligible for a short-term loan, (2) the director shall adopt and promulgate rules and regulations to administer and enforce this section and to ensure that the data base is used by licensees in accordance with this section and rules and regulations containing requirements set forth in this section, (3) the data base operator shall be subject to requirements set forth in this section, (4) the licensee may rely on information in the data base as accurate, (5) the information in the data base is not a public record, (6) the data base operator may impose a per transaction fee, if approved by the director, and which may not be charged to a short-term loan applicant or borrower, and (7) the records of a licensee and any electronic data base service shall be subject to review and examination by the Department of Banking and Finance.

Section 14 would enact a new section to provide that (1) licensees shall be subject to duties and standards of care set forth in this section, (2) an injured borrower may bring an action for recovery of damages, which shall be not less than all compensation paid to the licensee from any source, plus attorney's fees and costs, and (3) punitive damages may be awarded and remitted to the State in the manner of fines and penalties.

Section 15 would enact a new section to provide that the Director of Banking and Finance shall report semiannually to the Governor and the Legislature regarding enforcement actions and suspensions, revocations, or refusals to issue or renew licenses.

Section 16 would enact a new section to provide definitions for purposes of section 17 of the bill for "borrower," "communication," "consumer reporting agency," "debt collector," and "location information."

Section 17 would enact a new section to provide for prohibited debt collector communications and conduct as set forth in this section.

Section 18 would enact a new section to provide the Department of Banking and Finance with authority to adopt and promulgate rules and regulations to carry out the act.

Section 19 would enact a new section to provide that a violation of the act is a Class I misdemeanor (maximum: one year, or one thousand dollars, or both; minimum: none).

Section 20 would amend section 45-101.04 to provide that the general usury rate limitation (16 percent per annum) shall not apply to fees charged by a licensee pursuant to the Short-Term Lenders Act instead of the Delayed Deposit Services Licensing Act.

Section 21 would enact a new section to provide for creation of the Financial Literacy Education Fund to be used to support various adult financial literacy education programs developed or implemented by the Department of Banking and Finance. This section would provide intent that the initial appropriation shall be two hundred fifty thousand dollars. This section would provide that the department shall adopt and promulgate rules and regulations to require at least one-half of the programs offered to the public shall be presented by or available at community colleges or state institutions throughout the state. The section would provide that the department shall provide to the Governor and Legislature an annual report on each program.

Section 22 would provide a repealer for the amendatory section.

Section 23 would outright repeal sections 45-901 to 45-929, the Delayed Deposit Services Licensing Act.

---

Rich Pahls, Chairperson